

**TAYLOR, BURRAGE, FOSTER, MALLETT,
DOWNS, RAMSEY & RUSSELL**

A Professional Corporation

Stratton Taylor
Sean Burrage
Toney D. Foster
Brad Mallett
Darrell W. Downs*
Mark H. Ramsey
Clint Russell
Amy Evans

400 West Fourth Street
Claremore, OK 74017
www.soonerlaw.com

Mailing Address:
P.O. Box 309
Claremore, OK 74018

Voice 918.343.4100
Fax 918.343.4900

* Licensed in Oklahoma & Texas

June 6, 2012

Via Certified Mail

Department of Central Services
Risk Management Division
Will Rogers Office Building
2401 North Lincoln, Suite 224
Oklahoma City, OK 73105

Department of Central Services
Risk Management Division
P.O. Box 53364
Oklahoma City, OK 73152-3364

**Re: Notice of Oklahoma Governmental Tort Claim against the Oklahoma
Department of Veterans Affairs, operating as the Claremore Veterans Center**

To Whom It May Concern:

This law firm represents Frances Minter, the surviving spouse of Peter Jay Minter ("the decedent"), a disabled WWII veteran who was residing at the Claremore Veterans Center at the time of his death on May 3, 2012. Please accept this letter as a formal Notice of a Claim for personal injury and wrongful death against the Oklahoma Department of Veterans Affairs, operating as the Claremore Veterans Center, pursuant to the Oklahoma Governmental Tort Claims Act, 51 O.S. § 151 et seq.

In support of this governmental tort claim Notice, the Claimant states the following pertinent factual information:

1. The Claimant, Frances Minter, is the surviving spouse of Peter Jay Minter, a disabled WWII veteran admitted to the care of the Claremore Veterans Center on April 13, 2004.

2. The Claimant is represented by legal counsel:

Clint Russell
Taylor, Burrage, Foster, Mallett, Downs, Ramsey & Russell
400 West Fourth Street
P.O. Box 309
Claremore, Oklahoma 74017
918-343-4100
918-343-4900 - Facsimile

Please direct all correspondence and questions to the above referenced legal counsel.

3. The medical records of the Claremore Veterans Center reflect that the eighty-five (85) year old decedent was severely burned by submersion of his lower body in a hot whirlpool bath on the afternoon of May 2, 2012. It can be seen from the attached medical records that the decedent was negligently left unattended by the Veterans Center nursing staff in an unregulated whirlpool bath for an unknown period of time on the afternoon of May 2nd. The decedent was physically unable to enter the whirlpool bath on his own, so he was lowered into the whirlpool bath by Veteran's Center nursing staff. No trained medical person would lower a patient into a bath of extremely hot water, as the patient would surely cry out and bring this point to staff's attention. During this unattended period, it is believed that the temperature of the whirlpool bath rose dramatically to the point that it began to burn the skin and body of the decedent. The medical record generated by Veteran's Center employee Kenneth Adams the day after the accident states the following: "Called to Unit as Mr. Minter was found with skin sluffing off lower ext. Was in W.P. But was already out, so not able to check Temp and CNA said he was in a bit longer, legs, back and buttocks red with sharp demarcation lines like a burn. BP elevated at present." *See attached medical record marked as Exhibit 1.*
4. The evidence will show that the decedent cried out to his wife upon her arrival at the scene that "they burned me...they burned me." Photographs taken by the Claimant and her daughter shortly after the decedent was burned on the afternoon of May 2nd show that the partial submersion in the extremely hot water caused the decedent's skin to slough off and peel away, leaving exposed flesh. *See photographs attached hereto as Exhibit 2.* These photographs also show large blisters on the decedent's hands, soaked bed sheets from water and other bodily fluids escaping from the decedent's weeping blisters, burned and swollen hands from exposure to extremely hot water, and raw red sores on the decedent's ankles. *See photographs attached hereto as Exhibit 2.* It is believed that a separate investigation conducted by State authorities also produced photographs of the decedent's injuries.
5. After the incident, the decedent's pain was managed with morphine. The Claimant remained at her husband's side at the Veteran's Center throughout the evening of May 2nd and into the early morning hours of May 3rd. The decedent passed away at 2:30am on May 3, 2012, from complications arising from his severe thermal burns. *See Report of Investigation by Medical Examiner, attached hereto as Exhibit 3.* The Medical Examiner's Report states that the manner of death was an accident, not natural causes. *See Exhibit 3.* This evidence alone is enough for the Claimant to prevail on summary judgment for a claim of negligence against the Claremore Veterans Center.

Based on the aforementioned evidence, it is clear that the negligent actions of the Claremore Veteran's Center staff caused the severe thermal burns suffered by the decedent and that these thermal burns caused his death within twelve (12) hours. Accordingly, the Claimant sets forth the following specific causes of action to be considered as Notice of Tort Claims to be asserted against the Oklahoma Department of Veterans Affairs, operating as the Claremore Veterans Center, to wit:

1. Pursuant to 51 OKLA. STAT. § 156(F), the Claimant hereby presents a governmental tort claim against the State of Oklahoma Department of Veterans Affairs, operating as the Claremore Veterans Center, for the wrongful death of the decedent Peter Jay Minter, as well as for his pain and suffering and medical care. The Claimant has filed a Probate Action in the District Court of Rogers County, case number PB-2012-53, for the purpose of prosecuting this wrongful death action. The Claimant seeks monetary damages from the State in excess of \$175,000.00 for this claim.
2. Pursuant to 51 OKLA. STAT. § 151 et seq. and 42 U.S.C.A. § 1983, the Claimant hereby presents a governmental tort claim against the State of Oklahoma Department of Veterans Affairs, operating as the Claremore Veterans Center, for violations of the decedent's state and federal constitutional and civil rights arising from his inhumane treatment by the medical staff of the Claremore Veterans Center. The Claimant seeks monetary damages from the State in excess of \$175,000.00 for this claim.
3. Pursuant to 51 OKLA. STAT. § 151 et seq., the Claimant hereby presents a governmental tort claim against the State of Oklahoma Department of Veterans Affairs, operating as the Claremore Veterans Center, for both statutory and common law medical negligence in violation of established standards of care. Oklahoma law recognizes both of these torts against health care providers. See *Lounds v. State Dept. of Veterans Affairs*, 2011 OK CIV APP. 54, 255 P.3d 460, 464.
4. Pursuant to 51 OKLA. STAT. § 151 et seq., the Claimant hereby presents a governmental tort claim against the State of Oklahoma Department of Veterans Affairs, operating as the Claremore Veterans Center, for the mental anguish, emotional distress, grief, and the loss of consortium which the Claimant has suffered as a result of the Veteran's Center treatment of her deceased husband and his untimely death. The Claimant seeks monetary damages from the State in excess of \$175,000.00 for this claim.

Pursuant to 51 OKLA. STAT. § 157, Claimant will bring an action in an Oklahoma District Court against the Oklahoma Department of Veterans Affairs, operating as the Claremore Veterans Center, if these claims have not been approved within ninety (90) days of their receipt.

I respectfully request that a copy of this Notice of Tort Claim be sent to the insurance carrier and/or appropriate provider with the request that the same carrier or provider directly contact me regarding this claim, so that I may field any questions or submit additional supporting documentation pertaining to this tragic accident.

Department of Central Services
June 6, 2012
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Thank you for your attention to this matter, and I look forward to your prompt response.

Sincerely yours,

A handwritten signature in blue ink that reads "Clint Russell". The signature is written in a cursive style with a large, stylized "C" at the beginning.

Clint Russell

CR:ks
Enclosures